	<b>DEPARTMENT OF PUBLIC SAFETY</b>  <b>CORRECTIONS ADMINISTRATION</b> <b>POLICY AND PROCEDURES</b>	<b>EFFECTIVE DATE:</b> 10/01/2002	<b>POLICY NO.:</b> <b>COR.12.08</b>
		<b>SUPERSEDES (Policy No. &amp; Date):</b> 493.12.08 February 7, 1986	
	<b>SUBJECT:</b> <b>COUNSEL SUBSTITUTE, REQUEST AND SELECTION</b>		<b>Page 1 of 3</b>

No. 2002-1043

**1.0 PURPOSE**

To establish guidelines for the initiation of request and for the selection process involved in providing counsel substitute at Adjustment Committee Hearings.

**2.0 REFERENCE AND DEFINITIONS****.1 Reference**

- a. Section 26-14.6, Department of Public Safety; and Section 353C-2, Director of Public Safety, Powers and Duties.

**.2 Definitions**

- a. Counsel Substitute – a staff member who did not actively participate in the process by which the inmate was brought before the committee. Counsel substitute is necessary when it is apparent that an inmate is not capable (i.e. mentally deficient, unable to read or write, deaf, blind, etc.) of collecting and presenting evidence effectively on his or her behalf.

**3.0 POLICY**

It shall be the policy of the Corrections Division that the provisions of Section 26-14.6, Department of Public Safety; and Section 353C-2, Director of Public Safety, Powers and Duties, shall be carried out in all facilities.

**4.0 PROCEDURES**

- .1 Any employee who notifies an inmate/detainee of a charge alleging misconduct which requires a hearing before the Adjustment Committee shall also inform the inmate/detainee that a request for counsel substitute may be submitted (see attached request from).
- a. The request shall be submitted in writing and may indicate at least two individuals, in order of preference, whom they wish to act as their counsel substitute at the hearing.

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- b. Such request shall be submitted to the Warden or designee within one day (24 hours) following notification of charges.
- c. Only one (1) request may be submitted by an inmate/detainee for each scheduled hearing. Continuous or rescheduled hearings arising from the same charge shall be considered one hearing.
- .2 The Warden or designee shall determine the propriety of the request, the availability and qualifications of the requested counsel substitute and either approve or deny the request.
- .3 If denied, the reasons for such denial shall be made known to the inmate/detainee making the request.
- .4 If a requested counsel substitute is not available, refuses to act in such capacity or is undesirable or unqualified to act as a counsel substitute, the Warden or his designee may appoint an individual to so act in behalf of the inmate/detainee.
- .5 If the counsel substitute is approved and agrees to represent the inmate/detainee, the Adjustment Committee shall allow a reasonable time for preparation of defense but in no case shall such preparation period delay the hearing beyond one (1) week period from the original scheduled date.
- .6 Whatever the decision is on the request, a response should be given to the inmate/detainee within two (2) working days of receipt of the request.
- .7 The counsel substitute named shall be a facility staff member who did not actively participate in the process by which the inmate was brought before the committee.
- .8 Such counsel substitute shall be employed at the same facility as the inmate/detainee.
- .9 The counsel substitute shall be afforded the opportunity to peruse written material relevant to the allegations made and the charges placed and to submit written material or oral testimony in rebuttal or defense of such allegations or charges.
- .10 The counsel substitute shall not be permitted to peruse confidential inmate/detainee files, medical records, or any other material, the release of which would jeopardize in any way the privacy of any inmate or the security of the facility.

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- .11 No facility staff member acting as a counsel substitute shall receive any form of compensation, gift or reward from the inmate/detainee represented.
- .12 Acceptance of any compensations, gift or reward, whether solicited or voluntarily offered, may subject the recipient to appropriate disciplinary action.

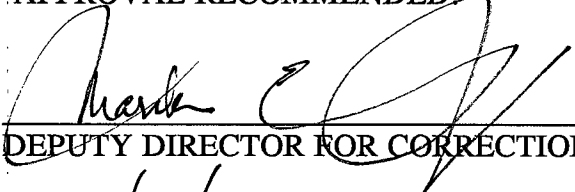
## 5.0 LIMITATIONS

This policy is strictly limited to the provisions described herein and does not substitute for, modify or invalidate the provisions of Section 26-14.6, Department of Public Safety; and Section 353C-2, Director of Public Safety, Powers and Duties.

## 6.0 SCOPE

This policy covers all employees and employee actions involved in the selection of counsel substitute for the Adjustment Committee hearing processes.

APPROVAL RECOMMENDED:




DEPUTY DIRECTOR FOR CORRECTIONS

9/30/02

Date

APPROVED:



DIRECTOR

10/1/02

Date

# INMATE REQUEST FORM

To: \_\_\_\_\_ Date: \_\_\_\_\_

From: \_\_\_\_\_ SID: \_\_\_\_\_ Module: \_\_\_\_\_ Block: \_\_\_\_\_ Quad: \_\_\_\_\_

Request: \_\_\_\_\_

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## For Staff Response Only

Comments: \_\_\_\_\_

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Approved/Disapproved      Staff Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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I have seen the response  
to my request.

Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_